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GLENN PATENT GROUP  
3475 EDISON WAY  
SUITE L  
MENLO PARK, CA 94025

EXAMINER
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KAPADIA, MILAN S

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 07/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/394,341

Applicant(s)

MORAG ET AL.

Examiner

Milan S Kapadia

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) 33-66 and 77-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 and 67-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) 6.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

**Notice to Applicant**

*I.* This communication is in response to the application filed 13 November 1999. Claims 1-86 are pending.

***Election/Restrictions***

*2.* Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I.* Claims 1-32 and 67-76, drawn to a communication system between patients and physicians, classified in class 705, subclass 3.
- II.* Claims 34-65 and 77-86, drawn to a messaging system between clients and service providers, classified in class 707, subclass 10.
- III.* Claims 33 and 36, drawn to client software in a client/server system, classified in class 709, subclass 203.

*3.* The inventions are distinct, each from the other because:

Inventions I, II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Invention I has separate utility such as a communication system between

insurance policyholders and insurance companies. The subcombination II has separate utility such as a prescription communication system between a patient and physician. The subcombination III has separate utility such as software residing on a client in a messaging client/server system.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Michael Glenn on June 06, 2002 a provisional election was made without traverse to prosecute the invention of I, claims 1-32 and 67-76. Affirmation of this election must be made by applicant in replying to this Office action. Claim 33-66, and 77-86 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

*Specification*

7. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

8. The abstract of the disclosure is objected to because the abstract exceeds the 150-word limit and should be on a separate sheet. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 2, 14, 15, 25, 26, 27, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318) in view of Sato et al. (5,911,687).

(A) As per claim 1, Hawkins teaches a method of messaging upon a network comprising:

using a first medical message wizard by said patient on said patient

operated computer further comprising;

generating an educated query message (Hawkins; col. 3, lines 35-39; the examiner interprets the "client" as the "patient operated computer"); and

sending said educated query message to one of said workflow engine addresses (Hawkins; col. 3, lines 39-40; the examiner interprets the "server" as the "workflow engine"); and

performing a medical profiler process by said workflow engine further comprising

receiving said educated query message at said workflow engine address (Hawkins; col. 3, lines 39-40;

processing said received educated query message, to create a processed, received educated query message(Hawkins; col. 3, lines 39-40; the examiner interprets "new, related queries" as "processed received educated query messages");

generating a patient medical query message from said processed, received educated query message(Hawkins; col. 3, lines 40-41; the examiner interprets "new queries" as "patient query message"); and

sending said patient medical query message to a corresponding physician address (Hawkins; col. 3, lines 40-42; the examiner interprets the "web server" as a computer operating at a "physician address" ); and  
using a second medical message wizard on said first physician operated computer at said corresponding physician address further comprising:

receiving said patient medical query message (Hawkins; col. 3, lines 42-44; the examiner interprets the "web server" as the "physician operated computer");

processing said received patient medical query message to create a processed, received patient medical query message (Hawkins; col. 3, lines 40-42; the examiner interprets the messages used by "second query protocol by the web server" as a "processed received patient medical query message";

Hawkins fails to expressly teach the messaging system involves patients and physicians comprising a computer operated by a physician and a computer operated by a patient and generating a patient message log entry in a medical profile from said processed, received educated query message. However, these features are old and well known in the art, as evidenced by Sato's teachings with regards to a messaging system involving patients and physicians comprising a computer operated by a physician and a computer operated by a patient and generating a patient message log entry in a medical profile from said processed, received educated query message (Sato; abstract; the examiner interprets the "electronic case record file" as a form of a "medical profile.") It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the system taught by Hawkins with Sato's teaching with regards to a messaging system involving patients and physicians comprising a computer operated by a physician and a computer operated by a patient and generating a patient message log entry in a medical profile from said processed, received educated query message, with the motivation of providing a patient located in a remote area a remote examination and treatment

services of high satisfaction and medical treatment related services other than examination and treatment regardless of the location of the doctor/facilities relative to the patient (Sato; col. 1, line 66-col. 2, line 6).

Hawkins and Sato collectively fail to teach generating a physician-viewable patient medical query message from said processed, received patient medical query message; and displaying said physician-viewable patient medical query message. It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Hawkins and Sato to generate a physician-viewable patient medical query message from said processed, received patient medical query message; and display said physician-viewable patient medical query message, with the motivation of enabling said physician to view and review said patient medical query message.

As per the term "message wizard" in claim 1, note Hawkins' teachings with respect to the use of easy-to-fill forms in order to submit messages or queries (Hawkins; col. 12, lines 40-67).

(B) Claim 2 differs from claim 1 by reciting that the message is a response from said physician to said patient and the response message is appended with a physician billing. As per the first limitation, Hawkins teaches a message response from said physician-operated computer to said patient-operated computer (Hawkins; col. 3, lines 42-48). As per the second limitation, Hawkins fails to expressly teach the response message is appended with a physician billing. However, this feature is old and well



known in the art, as evidenced by Sato's teachings with regards to the response message being appended with a physician billing (Sato; col. 6, lines 11-17). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the system taught by Hawkins with Sato's teaching with regards to the response message being appended with a physician billing, with the motivation of providing a patient located in a remote area a remote examination and treatment services of high satisfaction and medical treatment related services other than examination and treatment regardless of the location of the doctor/facilities relative to the patient (Sato; col. 1, line 66-col. 2, line 6). The remaining features of claim 2 repeat features of claim 1 and are therefore rejected for the same reasons given above in the rejection of claim 1 and incorporated herein.

(C) As per claim 14, Hawkins fails to expressly teach wherein said medical profiler process further comprises generating a billing report from said medical profile of said patient. However, this feature is old and well known in the art, as evidenced by Sato's teachings with regards to wherein said medical profiler process further comprises generating a billing report from said medical profile of said patient (Sato; col. 7, lines 39-56; the examiner interprets the "accounting file" as a form of "billing report.") It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the system taught by Hawkins with Sato's teaching with regards to wherein said medical profiler process further comprises generating a billing report from said medical profile of said patient, with the

motivation of providing a patient located in a remote area a remote examination and treatment services of high satisfaction and medical treatment related services other than examination and treatment regardless of the location of the doctor/facilities relative to the patient (Sato; col. 1, line 66-col. 2, line 6).

(D) As per claim 15, Hawkins fails to expressly teach the limitations of this claim. However, these features are old and well known in the art, as evidenced by Sato's teachings with regards to:

wherein said network further involves a billing system accessing said network at a billing system address on said network (Sato; col. 2, lines 58-62 and fig. 1; the examiner interprets the "financial institution" as the "billing system accessing said network") ; and

wherein said workflow engine process further comprises  
sending said billing report from said medical profile of said patient to said billing system address (Sato; col. 2, lines 60-61; the examiner interprets "asks the financial institution to pay for the treatment for the patient" as "sending said billing report from said medical profile of said patient to said billing system address"); and

further comprising a billing process performed by said billing system further comprising:

receiving said billing report for said patient sent from said workflow engine process (Sato; col. 2, lines 61-63); and

generating a bill for said patient from said received billing report (Sato; col. 2, lines 61-63; the examiner interprets "automatically withdraws the treatment fee from the patient's account" as a form of "generating a bill for said patient.")

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the system taught by Hawkins with Sato's teaching with regards to the above limitations, with the motivation of eliminating the problem of waiting for accounting which is required in a conventional hospital (Sato; col. 3, lines 27-30).

(E) As per claims 25-27, Hawkins teaches wherein said messaging protocol supports email, TCPIP, and the World Wide Web (Hawkins; col. 10, lines 13-16 and col. 11, lines 20-27).

(F) As per claim 30, Hawkins teaches wherein said medical profiler resides on at least one server capable of accessing said network to receive and send messages and wherein said workflow engine process is implemented as a program system wherein the various stated operations of said process are implemented as component program which may be concurrently operating (Hawkins; fig. 1 and col. 3, lines 33-47; the examiner interprets the process of the "server" as the "workflow engine process.")

(G) As per claim 31, Hawkins teaches wherein said workflow engine resides on

exactly one server capable of accessing said network to receive and send message  
(Hawkins; fig. 1; the examiner interprets the "proxy server" as the "workflow engine.")

11. Claims 3, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
Hawkins et al. (6,343,318) and Sato et al. (5,911,687) as applied to claim 2 above and further in  
view of Colvin (5,825,881).

(A) As per claim 3, Hawkins teaches:

wherein generating said educated query message by said first message wizard  
on said patient operated computer further comprises;

providing patient-to-profiler authentication key (Hawkins; col. 237, lines 1-6; the  
examiner interprets the "data encryption key" as the "patient-to-profiler authentication  
key"; and

encrypting said educated query message with said patient-to-profiler  
authentication key (Hawkins; col. 237, lines 1-6).

However, Hawkins and Sato collectively fail to expressly teach the remaining  
limitations. However, these features are old and well known in the art, as evidenced by  
Colvin's teachings with regards to:

wherein processing said received educated query message by said medical profiler  
process further comprises;

providing profiler-from-patient authentication key (Colvin; col. 14, lines 4-17; the  
examiner interprets the "central server" as the "medical profiler" and interprets the

"secured key associated with the first client computer system" as the "profiler-from-patient authentication key" ; and

decrypting said received educated query message with said profiler-from patient authentication key (Colvin; col. 14, lines 9-11); and

wherein generating said patient medical query message by said medical profiler process further comprises;

providing a profiler-to-first-physician authentication key; and encrypting said patient medical query message with said profiler-to-first physician authentication key (Colvin; col. 14, lines 13-15; the examiner interprets the "secured key associated with a second client computer system" as the "profiler-to-physician authentication key"); and

wherein processing said received patient medical query message using said second message wizard further comprises;

providing a first-physician-from-profiler authentication key; and decrypting said received patient medical query message with said first physician-from-profiler authentication key (Note Colvin teaches the client decrypting a message with its respective encryption key Colvin; col. 6, lines 15-40) ; and

wherein copying said patient response message with an appended physician billing data to said workflow engine address using said second message wizard further comprises;

providing a first-physician-to-profiler authentication key (Colvin; col. 14, lines 13-15; the examiner interprets the "secured key associated with a second client computer system" as the "first-physician-to-profiler authentication key" );

encrypting said patient response message with an appended physician billing data with said first-physician-to-profiler authentication key, to create a first physician-to-profiler encrypted patient response message with an appended physician billing data (Colvin; col. 14, lines 1-17; it is respectfully submitted that a second client computer system can encrypt data similar to the way the first client does and note Colvin teaches appending a billing to a response message (Colvin; col. 5, lines 8-44) ; and

sending said first-physician-to-profiler encrypted patient response message with an appended physician billing data to said workflow engine as said copied patient response message with an appended physician billing data (Colvin; col. 14, lines 1-17; it is respectfully submitted, that the second client computer system can send data to the central server similar to the first client computer system); and

wherein processing said received, copied patient response message with said appended physician billing data by said medical profiler process further comprises;

providing profiler-from-first-physician authentication key; and

decrypting said received, copied patient response message with said appended physician billing data with said profiler-from-first-physician authentication key, generating said processed, received patient response message with said appended physician billing data (Colvin; col. 14, lines 1-17; the examiner interprets the "secured key associated with a second client computer system" as the "profiler-from-physician authentication key." It is respectfully submitted, that the central server can decrypt messages from the second client computer system similar to the way it does with messages from the first client computer system).

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Colvin's teaching with regards to these limitations, with the motivation of reducing the risk that confidential information will be intercepted or misused (Colvin; col. 2, lines 20-22).

(B) As per claim 4, the collective system of Hawkins, Sato, and Colvin fail to expressly teach:

wherein generating said patient response message by said second message wizard on said first physician operated computer further comprises

providing a first-physician-to-patient authentication key;

generating an unencrypted patient response message from said physician viewable patient medical query message and said first-physician response; and

encrypting said unencrypted patient response message with said first physician-to-patient authentication key, to create said patient response message; and

wherein processing said received patient response message using said first message wizard on said patient operated computer further comprises

providing a patient-from-first-physician authentication key; and

decrypting said received patient response message with said patient-from first-physician authentication key, to create said processed, received patient response message.

However, it is respectfully submitted, that the use of authentication keys to encrypt/decrypt data is well-known in the art as shown above in the rejection of claim 3 and it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, and Colvin to implement these limitations, with the motivation of improving the security of the system by preventing the workflow engine computer from interpreting and misusing the confidential data.

(C) Claim 5 differs from claim 3 by reciting the limitations:

providing said patient corresponding address as a destination address within said patient response message... ; and

sending processed patient response message for said patient at said corresponding patient address to said patient at said corresponding address

As per these limitations, Hawkins teaches:

providing said patient corresponding address as a destination address within said patient response message... (Hawkins; col. 264, lines 16-27; it is respectfully submitted, that the "patient corresponding address" can be the "destination IP address" if desired)

sending processed patient response message for said patient at said corresponding patient address to said patient at said corresponding address (Hawkins; col. 264, lines 16-27).



12. Claims 6, 7, 8, 9, 10, 13, 28, 29, 67, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318), Sato et al. (5,911,687), and Colvin (5,825,881) as applied to claim 3 above and further in view of Falchuk et al. (6,256,613).

(A) As per claim 6, Hawkins, Sato, and Colvin collectively fail to expressly teach the limitations of this claim. However, these features are old and well known in the art, as evidenced by Falchuk's teachings with regards to:

wherein there is at least one physician extender operating a computer capable of receiving and sending messages at a corresponding address upon said network (Falchuk; abstract; the examiner interprets the "staff physician" as a form of "physician extender"); and

wherein generating a patient medical query message in said medical profiler process further comprises

selecting a first of said physician extenders (Falchuk; abstract; the examiner interprets the "client computer" as the "medical profiler");

generating a second patient medical query message for said first physician extender (Falchuk; abstract; the examiner interprets the "structured request" as the "second patient medical query message"); and

sending said second patient medical query message to said first physician extender at said corresponding physician extender address (Falchuk; abstract); and

further comprising using a third medical message wizard by said first physician extender on said first physician extender operated computer further comprising:

receiving said second patient medical query message at said first physician extender corresponding physician extender address (Falchuk; abstract; the examiner interprets the means to “display request for preliminary review” as the “third medical message wizard”);

processing said received second patient medical query message, to create a processed, received second patient medical query message (Falchuk; abstract; the examiner interprets the “consultation request” received as the “processed, received second patient medical query message”);

generating a physician extender-viewable patient medical query message from said processed, received second patient medical query message (Falchuk; abstract; the examiner interprets the “request” before it is “displayed for preliminary review” as the “physician extender-viewable patient medical query message”;

displaying said physician extender-viewable patient medical query message (Falchuk; abstract);

responding to said physician extender-viewable patient medical query message to create a first physician extender response (Falchuk; abstract; the examiner interprets “the request for consultation, together with at least an identification of the selected supporting documentation” as the “first physician extender response”) ;

generating a proposed patient response message from said physician extender-viewable patient medical query message and said first physician extender response (Falchuk; abstract; the examiner interprets the “request” sent to the “specialist” as the “proposed patient response message”); and

sending said proposed patient response message to said first-physician at said corresponding physician address (Falchuk; abstract; the examiner interprets the “specialist” as the “first-physician”); and

generating said physician-viewable patient medical query message using said second message wizard further comprising

receiving said proposed patient response message from said first physician extender at said corresponding physician extender address (Falchuk; abstract);

processing said received proposed patient response message, to create a processed, received proposed patient response message (Falchuk; abstract; the examiner interprets the “responsive comment” as the “processed, received proposed patient response message”); and

inserting said processed, received proposed patient response message as part of said physician-viewable patient medical query message (Falchuk; abstract; the examiner interprets the “structured case history” as the “physician-viewable patient medical query message”); and

generating said patient response message using said second message wizard further comprising reviewing said proposed patient response message to create said patient response message (Falchuk; abstract).

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, and Colvin with Falchuk’s teaching with regards to these limitations, with the motivation of providing managed, direct access to outside

medical consultants, therefore help avoid inaccurate, incomplete, or uncertain diagnoses which can result in inappropriate or excessive care (Falchuk; col. 1, lines 40-43).

(B) As per claims 7 and 8, the combined system of Hawkins, Sato, Colvin, and Falchuk fail to expressly teach said physician extender is an administrator or a physician assistant. However, it is respectfully submitted, that such a limitation is directed to who or what utilizes the claimed invention rather than a limitation drawn to what the claimed invention is, as such it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, Colvin, and Falchuk to have said physician extenders as an administrator or a physician assistant, with the motivation of freeing up physicians, by enabling their support personal to perform the functions required by the system.

(C) Claim 9 differs from features of claim 2 by reciting a third medical message wizard in place of the second medical message wizard and reciting a physician extender in place of the physician. These limitations repeat features of claim 6 and therefore are rejected for the same reasons given above in the rejection of claim 6 and incorporated herein. The remaining features of claim 9 repeat features of claim 2 and are therefore rejected for the same reasons given above in the rejection of claim 2 and incorporated herein.

(D) Claim 10 differs from features of claim 2 by reciting an embedded prescription in place of appended physician billing data. The collective system of Hawkins, Colvin, and Falchuk fail to expressly teach this limitation. However, this feature is old and well known in the art, as evidenced by Sato's teachings with regards to an embedded prescription being part of a response from a physician to a patient in a networked system (Sato; col. 5, lines 59-67 and fig. 1). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Colvin, and Falchuk with Sato's teachings with regards to an embedded prescription being part of a response from a physician to a patient in a networked system, with the motivation of providing a patient located in a remote area a remote examination and treatment services of high satisfaction and medical treatment related services other than examination and treatment regardless of the location of the doctor/facilities relative to the patient (Sato; col. 1, line 66-col. 2, line 6). The remaining features of claim 10 repeat features of claim 2 and are therefore rejected for the same reasons given above in the rejection of claim 2 and incorporated herein.

(E) As per claim 13, the collective system of Hawkins, Colvin, and Falchuk fail to expressly teach wherein said third message wizard is implemented as a computer program residing in computer readable media accessible by said physician extender operating said computer. However, this feature is old and well known in the art, as

evidenced by Sato's teachings with regards to wherein said third message wizard is implemented as a computer program residing in computer readable media accessible by said physician extender operating said computer (Sato; fig. 1 and col. 7, lines 9-23). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Colvin, and Falchuk with Sato's teachings with regards to wherein said third message wizard is implemented as a computer program residing in computer readable media accessible by said physician extender operating said computer, with the motivation of forming highly accessible case history documentation which may be readily manipulated using hypertext processing facilities (Sato; col. 2, lines 52-57).

(F) Claim 28 differs from claim 13 by reciting the second message wizard in place of the third message wizard and the physician in place of the physician extender. These limitations repeat features of claim 1 and are therefore rejected for the same reasons given above in the rejection of claim 1 and incorporated herein. The remaining features of claim 28 repeat the features of claim 13 and are therefore rejected for the same reasons given above in the rejection of claim 13 and incorporated herein.

(G) Claim 29 differs from claim 13 by reciting the first message wizard in place of the third message wizard and the patient in place of the physician extender. These limitations repeat features of claim 1 and are therefore rejected for the same reasons given above in the rejection of claim 1 and incorporated herein. The remaining features

of claim 29 repeat the features of claim 13 and are therefore rejected for the same reasons given above in the rejection of claim 13 and incorporated herein.

(H) Claim 67 repeats features of claims 1 and 13 and therefore is rejected for the same reasons given above in the rejection of claims 1 and 13 and incorporated herein.

(I) Claim 68 repeats features of claim 1 and therefore is rejected for the same reasons given above in the rejection of claim 1 and incorporated herein.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318), Sato et al. (5,911,687), Colvin (5,825,881), and Falchuk et al. (6,256,613 ) as applied to claim 10 above and further in view of Merck-Medco ("Merck-Medco Announces Interactive Web Site," News Release, October 27, 1998).

(A) As per claim 11, the collective system of Hawkins, Sato, Colvin, and Falchuk fail to expressly teach all the features of this claim, though Sato does teach a networked prescription-ordering system with a computer at a pharmacy capable of receiving and sending messages upon said network at a corresponding pharmacy address. However, the remaining features are old and well known in the art, as evidenced by Merck-Medco's teachings with regards to:

wherein generating said patient response message to said patient address in using said second medical message wizard further comprises:

maintaining a list of said pharmacies each with said corresponding pharmacy address (Merck-Medco; page 2, paragraph 2; the examiner interprets the "pharmacy locator" as a form of "maintaining a list of said pharmacies"); and

integrating a prescription order further comprising:

receiving a patient prescription order message (Merck-Medco; page 1, paragraph 1);

processing said patient prescription message to create a processed, received patient prescription message (Merck-Medco; page 1; paragraph 2; the examiner interprets the system processing "mail service prescription refills" as "processing said patient prescription message to create a processed, received patient prescription message") ;

generating a pharmacy prescription order message from said processed, received physician prescription message and said processed, received patient prescription message and said list of said pharmacies; and sending said pharmacy prescription order message to one of said pharmacies at said corresponding address; (Merck-Medco; page 2, paragraph 2; the examiner interprets the "prescription refill" request sent to the pharmacy as "generating a pharmacy prescription order message").

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, Colvin, and Falchuk with Merck-Medco's teachings with regards the above limitations, with the motivation of reducing paperwork and improving the administration of pharmacy benefits (Merck-Medco; page 1; paragraph 6).



The collective system of Hawkins, Sato, Colvin, Falchuck, and Merck-Medco fail to expressly teach:

using said first message wizard on said patient operated computer at said corresponding patient address further comprises:

responding to said patient response message using said first messaging wizard further comprising;

generating a patient prescription message from said embedded prescription; and

sending said patient prescription message to said workflow engine.

It is respectfully submitted, that since it is well-known that a prescription will be filled faster if routed to the proper division, it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, Colvin, and Falchuk, and Merck-Medco's to generate a patient prescription message from said embedded prescription and send said patient prescription message to said workflow engine, with the motivation reducing paperwork and improving the administration of pharmacy benefits (Merck-Medco; page 1; paragraph 6).

14. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318), Sato et al. (5,911,687), Colvin (5,825,881), and Falchuk et al. (6,256,613) as applied to claims 7, 8, and 10 above and further in view of Business Wire ("Merck-Medco and Physicians' Online Pilot New suite of Internet Applications To Facilitate Physician and Pharmacist Communications At the Point of Prescribing," Business Wire, October 22, 1998).

(A) As per claim 12, the collective system of Hawkins, Sato, Colvin, and Falchuk fail to expressly teach the features of this claim. However, these features are old and well known in the art, as evidenced by Business Wire's teachings with regards to:

wherein generating said proposed patient response message using said third medical message wizard by said nurse further comprises

generating a proposed embedded prescription refill in said proposed patient response message (Business Wire; page 2, paragraphs 2 and 3; the examiner interprets system used by "Merck-Medco" as the "third medical message wizard" and interprets "prescribing alternatives" as the "proposed patient response message") ;

reviewing said proposed patient response message using said second messaging wizard by said first physician further comprises reviewing said proposed embedded prescription refill further comprising at least one of the collection containing;

approving said proposed embedded prescription refill;

revising said proposed embedded prescription refill;

deleting said proposed embedded prescription refill; and

generating a second embedded prescription (Business Wire; page 1, paragraph 4; the examiner interprets the system used by the physician as the "second message wizard.")

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, Colvin, and Falchuk with Business Wire's teachings

with regards the above limitations, with the motivation of facilitating communications at the point of prescribing between pharmacists and physicians (Business Wire; page 1; paragraph 1).

The collective system of Hawkins, Sato, Colvin, Falchuck, and Business Wire fail to expressly teach wherein at least one of said physician extenders is a nurse. However, it is respectfully submitted, that such a limitation is directed to who or what utilizes the claimed invention rather than a limitation drawn to what the claimed invention is, as such it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, Colvin, and Falchuk, and Business Wire to have a physician extender as a nurse, with the same motivation given above in the rejections of claims 7 and 8 and incorporated herein.

15. Claims 16, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318) and Sato et al. (5,911,687) as applied to claim to claim 15 above and further in view of Spurgeon (5,890,129).

(A) As per claim 16, the Hawkins fails to expressly teach generating a personal bill for said patient. However, this feature is old and well known in the art, as evidenced by Sato's teachings with regards to generating a personal bill for said patient (Sato; col. 2, lines 61-63; the examiner interprets "the financial institution automatically withdraws the treatment fee from the patient's account" as a form of "generating a personal bill for said

patient.”) It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the system taught by Hawkins with Sato's teaching with regards to generating a personal bill for said patient, with the motivation of eliminating the problem of waiting for accounting which is required in a conventional hospital (Sato; col. 3, lines 27-30).

The collective system of Hawkins and Sato fail to expressly teach generating at least one insurance bills for said patient to a corresponding insurance provider. However, this feature is old and well known in the art, as evidenced by Spurgeon's teachings with regards to generating at least one bills for said patient to a corresponding insurance provider (Spurgeon; abstract). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Spurgeon's teaching with regards to generating at least one insurance bills for said patient to a corresponding insurance provider, with the motivation of increasing the speed with which claims are processed and paid (Spurgon; col. 4, lines 43-45).

(B) As per claims 17 and 18, the combined system of Hawkins, Sato, and Spurgeon fail to expressly teach said corresponding insurance provider includes the United States Government or includes a commercial insurance provider. However, it is respectfully submitted, that it is well-known all insurance providers require a governmental license or backing to operate, thus it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by

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Hawkins and Sato, and Spurgeon to include said corresponding insurance provider as the United States Government or a commercial insurance provider, with the motivation of providing the necessary underwriting and authorization for the diverse set of known insurance providers.

16. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318) and Sato et al. (5,911,687 as applied to claim 2 above and further in view of Falchuk et al. (6,256,613).

(A) As per claim 19, the combined system of Hawkins and Sato fail to expressly teach the limitations of this claim. However, these features are old and well known in the art, as evidenced by Falchuk's teachings with regards to:

wherein said network involves at least two physicians including a second physician (Falchuk; abstract);

wherein responding to said physician-viewable patient medical query message using said second message wizard by said first physician further comprises; generating a first-physician-second opinion request message (Falchuk; abstract; the examiner interprets the "staff physician" as the "first physician" and interprets the "request for consultation, together with at least an identification of the selected supporting documentation" as the "first-physician-second-opinion request message");

sending said first-physician-second opinion request message to said second physician at said corresponding physician address (Falchuk; abstract);

further comprising using said second message wizard by said second physician operating said computer at said corresponding physician address further comprises;

receiving said first-physician-second opinion request message at said second physician corresponding physician address (Falchuk; abstract);

processing said received first-physician-second opinion request message, to create a processed, received first-physician-second opinion request (Falchuk; abstract; the examiner interprets the "review" of the request as "processing said received first-physician-second opinion request" and interprets the "responsive comment" as the "processed, received first-physician-second opinion request") ;

displaying said processed, received first-physician-second opinion request (Falchuk col. 5, lines 18-34);

responding to said displayed processed, received first-physician-second opinion request to create a second opinion response (Falchuk; abstract; the examiner interprets the "responsive comment" as the "second opinion response");

generating a second opinion message from said second opinion response ; and sending said second opinion message to said first physician at said corresponding physician address (Falchuk; abstract).

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Falchuk's teaching with regards to the above limitations, with the motivation of providing managed, direct access to outside medical

consultants, therefore help avoid inaccurate, incomplete, or uncertain diagnoses which can result in inappropriate or excessive care (Falchuk; col. 1, lines 40-43).

(B) As per claim 21, Hawkins and Sato, fail to expressly disclose the limitations of this claim. However, these features are old and well known in the art, as evidenced by Falchuk's teachings with regards to:

wherein using said first message wizard further comprises maintaining a collection of patient problem templates (Falchuk; col. 6, lines 28-43; the examiner interprets the system of the "primary care" physician as the "first message wizard" and interprets "forms and structured output records" as "collection of patient problem templates", further comprising

lines 40-43; the examiner interprets the "request for consultations" as the "educated query message"; and

receiving a patient problem template from said medical profiler (Falchuk; col. 6, lines 44-60; note the medical records are received from the "supervisory computer" which the examiner interprets as the "medical profiler" );

processing said received patient problem template to create a processed, received patient problem template (Falchuk; col. 6, lines 44-67; the examiner interprets "records in local database" as "processed received patient problem templates"; and

adding said processed, received patient problem template to said collection of patient problem templates (Falchuk; col. 6, lines 44-67); and

wherein generating an educated query message using said first message wizard further comprises

invoking one of said patient problem template; and responding to said invoked patient problem template to generate said educated query message (Falchuk; col. 6, lines 61-64)

wherein performing said workflow engine processes further comprises generating a patient problem template from said medical profile of said patient (Falchuk; col. 5, lines 10-17).;

sending said generated patient problem template to said patient (Falchuk; col. 5, lines 10-17).

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Falchuk's teaching with regards to the above limitations, with the motivation of providing managed, direct access to outside medical consultants, therefore help avoid inaccurate, incomplete, or uncertain diagnoses which can result in inappropriate or excessive care (Falchuk; col. 1, lines 40-43).

17. Claims 22, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318) and Sato et al. (5,911,687 as applied to claim 1 above and further in view of Pinsky et al. (5,469,353).

(A) As per claim 22, Hawkins and Sato fail to expressly disclose the limitations of this



claim. However, these features are old and well known in the art, as evidenced by Pinsky's teachings with regards to:

wherein performing said medical profiler process further comprises maintaining a routing table comprised of at least one routing directive to said first physician (Pinsky; col. 4, lines 5-26; the examiner interprets "resource of available Network interpretation sites" as a "routing table comprised of at least one routing directive to said first physician");

wherein sending said patient medical query message to a first physician with said corresponding physician address further comprises:

examining said routing table based upon said patient medical query message to find a first of said routing directives to said first physician compatible with said patient medical query message (Pinsky; col. 4, lines 16-26; the examiner interprets the "Study" as a form of "medical query message"); and

finding said first routing directive to said first physician compatible with said patient medical query message (Pinsky; col. 4, lines 16-26).

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Pinsky's teaching with regards to the above limitations, with the motivation of matching the patient request with the physician best equipped and able to handle the specific needs of the request (Pinsky; col. 3, lines 41-53).

(B) As per claims 23 and 24, the combined system of Hawkins, Sato, and Pinsky fail to expressly teach extracting from said medical profile of at least two of said patients a patient routing and integrating into the routing table said patient extract. However, it is respectfully submitted, that systems for organizing data routing patterns into tables are old and well-known in the art, as such it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato, and Pinsky to extract from said medical profile of at least two of said patients a patient routing and integrating into the routing table said patient extract, with the motivation of taking the preferences of the patient into consideration before matching the patient request with the physician best equipped and able to handle the specific needs of the request.

18. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318) and Sato et al. (5,911,687 as applied to claim 2 above and further in view of Donohue et al. (5,987,480).

(A) As per claim 20, Hawkins and Sato fail to expressly disclose the limitations of this claim. However, these features are old and well known in the art, as evidenced by Donohue's teachings with regards to:

wherein using said second wizard further comprises maintaining a collection of patient response templates (Donohue; abstract; the examiner interprets the program running on the "server computer" as the "second message wizard", further comprising

creating one of said patient response templates of said patient response template collection (Donohue; abstract; the examiner interprets the "document templates" as "patient response templates") ;

editing one of said patient response templates of said patient response template collection (Donohue; abstract); and

wherein responding to said patient medical query message using said second wizard further comprises

invoking one of said patient response template in conjunction with said processed, received patient medical query message (Donohue; abstract; the examiner interprets the "selects on of the document templates corresponding to the desired document" as "invoking one of said patient response documents" and interprets "requests from client computers" as "patient medical query message"; and

responding to said invoked patient response template and said processed, received patient medical query message to create said first-physician response (Donohue; abstract; the examiner interprets the "populated document" as the "first-physician response.")

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Donohue's teaching with regards to the above limitations, with the motivation of providing web pages to users which are customized and individualized to each users particular needs and interest (Donohue; col. 3, lines 9-11).

However, the combined system of Hawkins, Sato, and Donohue fail to expressly teach deleting one of said patient response templates of said patient response template collection. It is respectfully submitted, that since a crowded data storage unit will negatively impact system processing capabilities, it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, and Donohue enable deleting one of said patient response templates of said patient response template collection, with the motivation of discarding a template that is no longer needed.

19. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318) and Sato et al. (5,911,687 as applied to claim 31 above and further in view of Gray (6,149,585).

(A) As per claim 32, Hawkins and Sato fail to expressly disclose the limitations of this claim. However, these features are old and well known in the art, as evidenced by Gray's teachings with regards to:

wherein said medical profiler resides on a first server and a second server coupled to said first server by a second network implementing a second messaging protocol (Gray; fig. 1 and col. 2, lines 37-67; the examiner interprets the "webserver" as the "first server," interprets the "application server" as the "second server," and interprets the "organization's internal TCPIP network" as the "second network implementing a second messaging protocol.";

wherein said first server capable of accessing said network to receive and send messages and maintaining a firewall to filter all messages received from said network providing at least one of said filtered, received messages from said first network to be received by said second server upon said second network (Gray; fig. 1 and col. 2, lines 3-67); and

wherein said second server performs at least one of the stated operations of said workflow engine process (Gray; fig. 1 and col. 2, lines 37-67; it is respectfully submitted, that the program run on the application server could be the workflow engine process if desired)..

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins and Sato with Gray's teaching with regards to the above limitations, with the motivation of providing security by restricting the types of traffic that is passed (Gray; col. 2, lines 54-58).

20. Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318), Sato et al. (5,911,687), Colvin (5,825,881), Falchuk et al. (6,256,613 ), and Pinsky (5,469,353 as applied to claim 68 above.

(A) Claim 69 repeats features of claim 23 and therefore is rejected for the same reasons given above in the rejection of claim 23 and incorporated herein.

21. Claims 70, 71, 72, 73, and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318), Sato et al. (5,911,687), Colvin (5,825,881), Falchuk et al. (6,256,613 ), Pinsky (5,469,353)), Merck-Medco ("Merck-Medco Announces Interactive Web Site," News Release, October 27, 1998), and Business Wire ("Merck-Medco and Physicians' Online Pilot New suite of Internet Applications To Facilitate Physician and Pharmacist Communications At the Point of Prescribing," Business Wire, October 22, 1998) as applied to claims 11, 12, and 69 above.

(A) Claim 70 repeats features of claims 11 and 12 and is therefore rejected for the same reasons given above in the rejection of claims 11 and 12 and incorporated herein.

(B) Claims 71 and 72 repeats features of claim 6 and therefore is rejected for the same reasons given above in the rejection of claim 6 and incorporated herein.

(C) Claim 73 repeats features of claim 9 and therefore is rejected for the same reasons given above in the rejection of claim 9 and incorporated herein.

(D) Claim 74 repeats features of claim 6 and therefore is rejected for the same reasons given above in the rejection of claim 9 and incorporated herein.

22. Claims 75 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins et al. (6,343,318), Sato et al. (5,911,687), Colvin (5,825,881), Falchuk et al.

(6,256,613 ), Pinsky(5,469,353), Merck-Medco ("Merck-Medco Announces Interactive Web Site," News Release, October 27, 1998), and Business Wire ("Merck-Medco and Physicians' Online Pilot New suite of Internet Applications To Facilitate Physician and Pharmacist Communications At the Point of Prescribing," Business Wire, October 22, 1998) as applied to claims 9 and 70 above and further in view of Masuo et al. (6,154,444).

(A) As per claim 75, Hawkins, Sato, Colvin, Falchuk, Merck-Medco, and Business Wire fail to expressly disclose the limitations of this claim. However, these features are old and well known in the art, as evidenced by Massuo's teachings with regards to:

code for generating a routing tree comprised of at least one routing arrow based upon said received educated query, each of said routing arrows contains a source and a destination belonging to a tree routing collection comprised of at least each of said physicians, and each of said routing arrows connecting to form a chain containing a final destination of said first physician (Masuo; col. 2, lines 8-44; the examiner interprets the "connection setup message" as the "received educated query", the "route table" as a form of "routing tree," and it is respectfully submitted, that the final "node" could be "said first-physician" if desired); and

code for generating a source patient query message for each said source of each said routing arrow of said routing tree containing said chain of said routing arrow and sending said source patient query message to said source of said routing arrow of said routing tree (Massuo; col. 2, lines 8-44).

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to modify the collective system taught by Hawkins, Sato, Colvin, Falchuk, Merck-Medco, and Business Wire with Masuo's teaching with regards to the above limitations, with the motivation of providing a source routing method for quickly establishing a connection in a connection-oriented network when the connection encounters an unfavorable network connection (Masuo; col. 1, lines 38-41).

(B) Claim 76 repeats features of claim 9 and is therefore rejected for the same reasons given above in the rejection of claim 9 and incorporated herein (it is respectfully submitted, that the recitation of a "physician extender" is a limitation directed to who or what utilizes the claimed invention rather than a limitation drawn to what the claimed invention is).

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches a patient care delivery system (6,302,844); a network controller for processing status queries (6,112,247); a method and architecture for an interactive two-way data communication network (6,405,037); and a method and system for secure communicationst (6,253,326).



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24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mk

mk

June 28, 2002

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

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~~SUPERVISORY PATENT EXAMINER~~  
~~JOSEPH THOMAS~~